



**FAX COVER**

From: Renée S. Polizotto, Ph.D.  
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To: Examiner Phuong N. Huynh, GAU 1644  
Phone: 703.308.4844  
Fax number: 703.746.5295

Number of pages: 4, including this page

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November 20, 2003

Re: U.S. Serial No. 09/905,744  
Attorney Docket No. 28110/36120A

Please contact Renée S. Polizotto, Ph.D. at 408.215.4522 with any questions pertaining to the Response.

Please contact Donna Rose at 408.215.4588 with any problems regarding this transmission.

Thank you.

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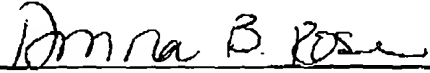
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PAGE 1/4 \* RCVD AT 11/20/2003 4:37:57 PM [Eastern Standard Time] \* SVR:USPTO-EFAX-2/1 \* DNIS:7465295 \* CSID:4085248145 \* DURATION (mm:ss):01:28

PATENT  
Docket No. 28110/36120A  
**COPY FOR EXAMINER HUYNH**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Applicant(s):</b> Chadwick, <i>et al.</i>	<p style="text-align: center;">CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8</p> <p>I hereby certify that this correspondence is being facsimile transmitted to Examiner Phuong N. Huynh, Group Art Unit 1644, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, facsimile no. 703.872.9306 on:</p> <p>Date: November 20, 2003 Name of Person Signing: Donna B. Rose</p> <p style="text-align: center;"> Signature of Person Signing</p>
<b>Serial No:</b> 09/905,744	
<b>Filed:</b> July 13, 2001	
<b>For:</b> METHODS AND COMPOSITIONS RELATING TO CD-39-LIKE POLYPEPTIDES AND NUCLEIC ACIDS	
<b>Examiner:</b> Phuong N. Huynh	
<b>Group:</b> 1644	

**TRANSMITTAL OF RULE 1.132 DECLARATION**

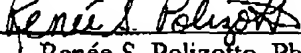
Examiner Phuong N. Huynh  
Group Art Unit 1644  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Examiner Huynh:

As requested in our phone conversation of 18 November, 2003, enclosed please find a copy of the Rule 1.132 declaration of Walter Funk, Ph.D. regarding common assignment of the instant invention and U.S. Patent 6,476,211B1. If there are any questions regarding this paper, or if further discussion would expedite allowance of the claims, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

Date: November 20, 2003

By:   
Renée S. Polizotto, Ph.D.  
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PATENT  
Docket No. 28110/36120A  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>Applicant(s):</b> Chadwick, <i>et al.</i>	<b>CERTIFICATE OF TRANSMISSION</b> UNDER 37 CFR 1.8
<b>Serial No:</b> 09/905,744	I hereby certify that this correspondence is being facsimile transmitted to Examiner Phuong N. Huynh, Group Art Unit 1644, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, facsimile no. 703.872.9306 on:
<b>Filed:</b> July 13, 2001	Date: November 20, 2003 Name of Person Signing: Donna B. Rose
<b>For:</b> METHODS AND COMPOSITIONS RELATING TO CD-39-LIKE POLYPEPTIDES AND NUCLEIC ACIDS	_____ Signature of Person Signing
<b>Examiner:</b> Phuong N. Huynh	
<b>Group:</b> 1644	

## DECLARATION OF WALTER FUNK, Ph.D., UNDER 37 C.F.R. § 1.132

Examiner Phuong N. Huynh  
Group Art Unit 1644  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Examiner Huynh:

I, Walter Funk, Ph.D., hereby declare as follows that:

1. I received a doctoral degree in Biochemistry from the University of British Columbia. Since receiving my Ph.D., I have been employed by Geron Corp. and Nuvelo, Inc. as a scientist and manager in the area of Molecular Biology and Genomics.

2. I have reviewed the specification of the above-identified application and make statements in this declaration to address a 102(e) rejection made in the Office Action mailed July 14, 2003, wherein the Examiner alleges that U.S. Patent 6,476,211B1 (herein denoted the '211 patent) anticipates claims 19-24 of the instant application.

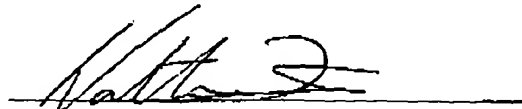
## COPY FOR EXAMINER HUYNH

3. The invention of the instant application was assigned to Hyseq, Inc. in the parent application (09/240,639 now U.S. Patent 6,350,447), and all of the subject matter of the instant application is contained within U.S. Patent 6,350,447. The invention of the '211 patent is also assigned to Hyseq, Inc.; therefore, the inventions of the instant application (U.S. Serial No. 09/905,744) and the '211 patent are commonly assigned to Hyseq, Inc. (now Nuvelo, Inc.).

4. The subject matter claimed in the instant application (SEQ ID NO: 6) is disclosed in the '211 patent, but not claimed. However, SEQ ID NO: 6 was first invented by the inventors of the instant application (Chadwick and Frischauf) in a journal article which was made public June 15, 1998 which precedes the priority date of the '211 patent (Chadwick *et al.*, *Genomics* 50:357-367 (1998)). In addition, the '211 patent acknowledges the previous identification and characterization (i.e. previous invention) of SEQ ID NO: 6 by referring to the Chadwick *et al.* paper several times (see column 47, lines 2-6, column 48, lines 12-16, and column 50, lines 64-67). Therefore, the inventors of the '211 patent built upon the invention of the instant application, which was commonly owned by Hyseq, Inc.

5. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.

Date: 11.20.03



Walter Funk, Ph.D.